

MT LEGISLATIVE HISTORY

Chapter 397 1977

Bill H 68 S _____

Original bill & hist. C

H. Committee on State Administration

S. Committee on State Administration

Hearing Date(s) JAN 10 ✓ C

Hearing Date(s) MAR 25 ✓ C

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MAR 16 ✓ C

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Date Out _____ C

MAR 16 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

State Law Library of Montana



NOTE-

Even though a subcommittee
is appointed by the House State Admin.
Comm. on January 10, 1992, no further
references to this bill could be found.

1 HB BILL NO. 68
 2 INTRODUCED BY Bentley, Robb, Swenson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING BARRIERS TO
 5 MORE EFFICIENT DELIVERY OF FOREST FIRE PROTECTION SERVICES
 6 TO MONTANA'S FOREST AND FARM RESOURCES BY SIMPLIFYING THE
 7 FOREST FIRE ASSESSMENT SYSTEM, EXPANDING THE RESPONSIBILITY
 8 AND AUTHORITY OF COUNTIES IN PROVIDING PROTECTION FOR FOREST
 9 AND FARM RESOURCES, AND CLARIFYING STATUTES RELATING TO
 10 FIREWARDENS; AMENDING SECTIONS 28-103, 28-105, 28-106,
 11 28-109, 28-110, 28-111, 28-114, 28-117, 28-118, 28-122,
 12 28-129, 28-601, 28-602, 28-603, 81-1411, 81-1412, AND
 13 81-1415, R.C.M. 1947; AND REPEALING SECTIONS 28-125, 28-128,
 14 AND 28-604, R.C.M. 1947."
 15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 17 Section 1. Section 28-103, R.C.M. 1947, is amended to
 18 read as follows:
 19 "28-103. Definitions. Unless the context requires
 20 otherwise, in this chapter:
 21 (1) "Forest land" means land which has enough timber,
 22 standing or down, slash, or brush, to constitute in the
 23 judgment of the board department a fire menace to life or
 24 property; grassland and agricultural areas are included when
 25 those areas are intermingled with or contiguous to areas of

1 forest land.
 2 (2) "Lands" for conservation purposes means all forest
 3 lands within this state which are officially classified by
 4 the board department as forest lands ~~in accordance with~~
 5 ~~section 28-104-(b) under 28-106.~~
 6 (3) "Forest fire" means a fire burning uncontrolled on
 7 forest lands.
 8 (4) "Organized forest fire protection district" means
 9 a definite forest land area, the boundaries of which are
 10 fixed, and wherein forest fire protection is provided
 11 through the medium of an agency recognized by the board.
 12 (5) "Recognized agency" means an agency representing
 13 ~~owners of forest lands in an organized forest fire~~
 14 ~~protection district~~ organized for the purpose of providing
 15 forest fire protection ~~in the district~~ and recognized by the
 16 board as giving adequate fire protection to forest lands in
 17 accordance with rules adopted by the board. ~~A public agency~~
 18 ~~administering and protecting forest lands may also be~~
 19 ~~recognized by the board as such an agency.~~
 20 (6) "Forest fire season" means the period of each year
 21 beginning on May first 1 and ending on September thirtieth
 22 30, inclusive; however, in the event of excessive or great
 23 fire danger, this period may be expanded when in the
 24 judgment of the department dangerous fire conditions exist.
 25 When expanded, the department shall give public notice.

(7) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires and includes training required to perform those functions.

~~{8}--"Protection--zone"--means-a-broad-area-within-which the-forest-fire-protection-costs-are-approximately-the-same. Protection-zones-shall-be-designated-by-the-department-with the-approval-of-the-board.~~

~~{9}{10}~~ "Conservation" means the protection and wise use of forest, forest range, forest water, and forest soil resources in keeping with the common welfare of the people of this state.

~~{10}{11}~~ "Owner" means the person, firm, association, or corporation having the actual, beneficial ownership of forest land, or timber, other than an easement, right-of-way, right-of-way, or mineral reservation.

~~{11}{12}~~ "Board" means the board of natural resources and conservation, provided for in section 82A-1509.

~~{12}{13}~~ "Department" means the department of natural resources and conservation, provided for in Title 82A, chapter 15."

Section 2. Section 28-105, R.C.M. 1947, is amended to read as follows:

"28-105. Powers of board. The board may:

~~{1}{--Classify--the--forest--land--areas--of--the--state--for which--conservation--and--fire---protection---measures---are~~

~~reasonably-required,-and-change-or-modify-the-classification from-time-to-time-as-in-its-judgment-is-proper.~~

~~{2}{11}~~ Create organized forest fire protection districts. Before a district is created, the board shall hold a hearing in any county in which the proposed district or a part thereof is included and the department shall give notice of the hearing at least ~~twenty-{20}~~ days in advance thereof to all owners to be affected by the proposed district. Service of the notice may be made by registered or certified mail or by publication in a newspaper published in the county in which the hearing is to be held, and or, if no newspaper is published in the county, then in a newspaper having a general circulation therein. A forest fire protection district may not be created unless approved in writing by vote of not less than ~~fifty-one-per-cent-{51}~~ of the owners representing at least ~~fifty-one-per-cent-{51}~~ of the acreage to be involved in the proposed forest fire protection district.

~~{3}{12}~~ Adopt and enforce through the department reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this chapter; however, these rules may not conflict with the powers of the board of land commissioners."

Section 3. Section 28-106, R.C.M. 1947, is amended to read as follows:

"28-106. Powers and duties of department. (1) The department may give technical and practical advice to--the farmers--of--the--state concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, ~~and shelters, shelterbelts, and forest fire protection.~~

(2) The department may provide for forest fire protection of any forest lands through the department or by contract or any other feasible means, in cooperation with any federal, state, or other recognized agency.

~~(3) The department may classify the forest land areas of the state for which conservation and fire protection measures are reasonably required and change or modify the classification from time to time as in its judgment is proper.~~

~~(3)(4)~~ The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

~~(5) Nonforest lands and improvements may be protected by the department when requested by the landowner at rates determined by the department.~~

~~(4)(6)~~ The department shall assist the department of state lands in the protection, economic development, and use of the state forests and forest land held by the state for

the purposes and benefit of the common schools and state institutions."

Section 4. Section 28-109, R.C.M. 1947, is amended to read as follows:

"28-109. Duty of owner of classified forest land. (1) An owner of forest land classified as such by the board ~~department~~ shall protect against the starting or existence, and suppress the spread of fire on that land, ~~during--the full--period-of-each-forest-fire-season.~~ This protection and suppression shall be in conformity with reasonable rules and standards for adequate fire protection adopted by the board. If the owner does not provide for the protection and suppression, the department may provide it at a cost to the landowner of not more than ~~sixteen-cents-(16¢) 16 cents~~ per acre per year for ~~Class-I-land-and-not-more-than-five--cents (5¢)--per--acre--per--year--for--Class-II-land; in-the-event thereof, the~~ and not less than \$6 per owner per year in each protection district. The owner of the land shall pay to the county treasurer of the county in which the land is situated the charge for the same approved by the department, in accordance with this chapter. No other charges may be assessed those landowners participating, except in cases of proven negligence on the part of the landowner or his agent.

~~(2)--The forest land of Montana shall be classified for protection-and-assessment-purposes-as-follows:~~

~~(a) Class I land forest land primarily suitable for production of timber and forest land primarily suitable for joint use for timber production and the grazing of livestock as a permanent or semipermanent joint use or as a temporary joint use during the interim between logging and reforestation.~~

~~(b) Class II lands lands primarily suitable for grazing or other agricultural purposes which are intermingled with or contiguous to the land described in subsection (a) above.~~

~~(c) Class III lands lands primarily suitable for grazing or other agricultural purposes including structures and improvements which are within the forest fire protection areas but do not meet the detailed definitions of lands described in subsection (b) above. These lands may only be listed for payment when requested by the landowner at rates determined by the department and shall be submitted to the county assessor for collection and disposition as provided in section 28-111.~~

Section 5. Section 28-110, R.C.M. 1947, is amended to read as follows:

"28-110. What constitutes compliance. (1) An owner of Class I or Class II forest lands within an organized forest fire protection district, while a member of, or while participating in a recognized agency for forest protection,

shall be considered to have fully complied with the requirements of section 28-109.

(2) In establishing boundaries of organized forest fire protection districts covering Class I or Class II forest lands, the board may for the purpose of administrative convenience designate roads, pipelines, streams or other recognizable landmarks as boundaries."

Section 6. Section 28-111, R.C.M. 1947, is amended to read as follows:

"28-111. Determination of costs of fire protection -- certification -- tax levy. (1) The department shall prepare a fire protection an annual operation assessment plan for the approval of the board in which fire protection costs for each classification within each protection zone are determined. The board shall establish the portion of the planned fire protection costs to be borne by the state and the portion to be borne by the owners of classified forest land. The department shall request the legislature to appropriate the state's portion of the cost as approved by the board. After the appropriation is made by the legislature, the department shall cause an assessment to be made on the owners of classified forest land, as specified in section 28-109, sufficient to bring the total amount received to the amount specified in the approved plan.

(2) On or before the second Tuesday in August of each

1 year, the department shall determine the names of all owners
 2 who have failed to provide the forest fire protection for
 3 their lands required by this chapter together with the
 4 description of the lands and their acreage and calculate
 5 the total amount due to the department from each owner for
 6 forest fire protection, which amount may not exceed the
 7 maximum specified in section 28-109.

8 (3) The department shall certify in writing to the
 9 county assessor of each county the names of these owners of
 10 forest lands in his county, together with a description of
 11 their lands and a statement of the amount found to be due
 12 and owing by each of the owners to the department for forest
 13 fire protection.

14 (3) All payments required of owners of forest lands by
 15 this chapter are assessments for benefits actually received
 16 by those owners in the protection of their lands and are not
 17 a tax upon the property of such owners.

18 (4) Upon receiving the certificate from the department
 19 showing the amount due, the county assessor shall extend the
 20 amounts upon the county tax rolls covering the lands, and
 21 the sums shall become obligations of the owner to be paid
 22 and collected in the same manner and at the same time and
 23 with like penalties as general state and county taxes upon
 24 the same property are collected. All sums collected shall be
 25 promptly transmitted to the state treasury who shall

1 deposit them deposited in the federal and private grant
 2 clearance fund for distribution in accordance with section
 3 28-124."

4 Section 7. Section 28-114, R.C.M. 1947, is amended to
 5 read as follows:

6 "28-114. Permit for burning required. During the
 7 forest fire season or an expansion thereof, a person may not
 8 ignite or set a forest fire, slash burning fire, land
 9 clearing fire, debris burning fire, or an open fire, within
 10 forest lands, without an official written permit to ignite
 11 or set the fire from a firewarden or peace officer
 12 authorized by the department to issue such permits for
 13 forest lands the recognized protection agency for that
 14 protection area. A permit is not required in order to
 15 build, set, or ignite a campfire within and upon a
 16 designated improved camping ground, or upon a plot of land
 17 from which all vegetable and inflammable matter and debris
 18 have been removed to a point where it may not become ignited
 19 by the campfire or by sparks therefrom."

20 Section 8. Section 28-117, R.C.M. 1947, is amended to
 21 read as follows:

22 "28-117. Throwing lighted cigarettes, etc., materials
 23 -- penalty. During the forest fire season, as defined by
 24 this act, any A person who shall throw or place throws or
 25 places any lighted cigarette, cigar, ashes, or other flaming

or glowing substance or any substance or thing that may cause a fire in any place where such lighted cigarette, cigar, match, ashes or other flaming or glowing substance or other substance or things may directly or indirectly start a fire in or near any forest material, or throw from a vehicle any lighted cigarette, cigar, ashes or other flaming or glowing substance or any substance or thing that may cause a fire, shall be is guilty of a misdemeanor."

Section 9. Section 28-118, R.C.M. 1947, is amended to read as follows:

"28-118. Spark arresters to be provided for engines, etc. During the forest fire season, as defined by this act, no No person shall may use, drive, or operate within any forest lands, any wood or coal burning locomotive, logging engine, portable engine, traction engine, or stationary engine, or any coal or wood burning jammer or loader, or internal combustion engine which that is not equipped with a modern, efficient, and adequate spark arrester and with modern, efficient devices to prevent the escape of sparks, coals, cinders, and other burning material from the smoke stack, fire box, ash pan, or exhaust of any such engine, jammer, or loader. And it shall be unlawful for any person to operate any such engine, jammer, or loader, within any forest lands during any forest protection season, except when such spark arrester and other devices herein defined are

efficient, complete, and properly installed for the purpose intended."

Section 10. Section 28-122, R.C.M. 1947, is amended to read as follows:

"28-122. Department of state lands land commissioners and the county commissioners governing body to cooperate. The department of state lands and boards of county commissioners governing body may shall cooperate with the department to the extent legally permissible in providing means and methods of safeguarding the forest land lying within the state and in preventing fire nuisance thereon. The department of state lands and the boards of county commissioners governing body may list forest lands under their jurisdiction with a recognized agency or the department for forest protection. The moneys the state and counties become liable for under this section shall be paid from funds provided by law for the protection of the forest lands owned by the state and counties."

Section 11. Section 28-129, R.C.M. 1947, is amended to read as follows:

"28-129. Owners of forest lands may have hearing before board -- conditions. An owner of forest land within an organized forest fire protection district is entitled to a hearing before the board, after a request therefor, on any subject pertaining to the activities of the board, or of the

1 department, or any recognized agency as agent of the
 2 department, affecting the owner's property. A request for a
 3 hearing before the board may not have the effect of
 4 suspending the operations of the board, or the department,
 5 or any agent of the department, undertaken pursuant to this
 6 chapter, but, upon the hearing, the board may terminate
 7 those operations if found unreasonable. A hearing pertaining
 8 to costs charged against the forest land of an owner for
 9 protection thereof, as provided in section 28-109, must be
 10 requested on or before the ~~fifteenth day~~ of August 15 of
 11 each year."

12 Section 12. Section 28-601, R.C.M. 1947, is amended to
 13 read as follows:

14 "28-601. Authority of county commissioners governing
 15 body to protect range, farm, and forest resources. For the
 16 purpose of protection and conservation of range, farm, and
 17 forest resources, and of the prevention of soil erosion, the
 18 ~~respective boards of county commissioners governing body are~~
 19 ~~hereby authorized to may~~ perform the functions hereinafter
 20 provided in this chapter."

21 Section 13. Section 28-602, R.C.M. 1947, is amended to
 22 read as follows:

23 "28-602. Functions of the board county governing body.
 24 The ~~functions of the respective boards of county~~
 25 ~~commissioners county governing body~~, with respect to rural

1 fire control, shall ~~be to~~ carry out the specific authorities
 2 and duties hereinafter imposed:

3 (1) To the governing body shall provide for the
 4 organization of volunteer rural fire control crews;

5 (2) To the governing body shall appoint a county rural
 6 fire chief and such district rural fire chiefs, subject to
 7 the direction and supervision of the county rural fire
 8 chief, as they ~~may deem~~ consider necessary. The county rural
 9 fire chief may be a regular county officer or other person
 10 who in the opinion of the board is the best qualified to
 11 perform the duties of this office and who ~~shall serve~~
 12 ~~without is not entitled to~~ additional compensation for the
 13 duties hereby imposed. All district fire chiefs shall serve
 14 without compensation;

15 ~~(3) Boards of county commissioners, acting pursuant to~~
 16 ~~this act, may co-operate with federal, state and other fire~~
 17 ~~protection agencies, including boards of county~~
 18 ~~commissioners of adjoining counties in providing means and~~
 19 ~~methods of safeguarding the range, farm and forest lands~~
 20 ~~within the state and in preventing fire nuisance thereon~~

21 (3) The county governing body shall protect the range,
 22 farm, and forest lands within the county from fire in
 23 cooperation with federal, state, and other fire protection
 24 agencies, including governing bodies of adjoining counties."

25 Section 14. Section 28-603, R.C.M. 1947, is amended to

1 read as follows:

2 "28-603. Powers of board county governing body.

3 (1) ~~Boards of~~ The county commissioners governing body may
4 in ~~their~~ its discretion establish fire seasons annually
5 during which no person ~~shall~~ may ignite or set any forest
6 fire, or slash burning fire, or land clearing fire, or
7 debris burning fire, or any open fire, within any forest,
8 range, or crop lands, subject to the provisions of this act,
9 without having obtained an official written permit to ignite
10 or set such fire from a county rural fire chief or from a
11 district rural fire chief authorized by the board to issue
12 such permits for such lands.

13 (2) Any person who ~~shall~~ ignite ignites or ~~set sets~~
14 any forest fire, or slash burning fire, or land clearing
15 fire, or debris burning fire, or any open fire, within any
16 forest, range, or crop land subject to the provisions of
17 this act without first having obtained a written permit to
18 ignite or set such fire ~~shall~~ is be guilty of a
19 misdemeanor.

20 (3) To augment rural crews in case of serious
21 emergency, ~~the boards~~ governing body may provide for the
22 organization and training of voluntary urban fire crews to
23 be used in rural areas.

24 (4) Any county rural fire chief and/or district rural
25 fire chief may enter private property either with or without

1 fire control crews for the purpose of suppressing fires, and
2 are ~~is~~ exempt from any damage resulting from such activity.

3 (5) The board county governing body is authorized to
4 appropriate from the general fund of the county not to
5 exceed ~~fifteen--thousand--dollars--(\$15,000)~~ per year for the
6 purchase, care, and maintenance of ~~fire-fighting~~
7 firefighting equipment, or for the payment of wages to
8 skilled operators of heavy mechanized equipment in the
9 ~~prevention, detection, and suppression of fires, when deemed~~
10 ~~necessary~~ or if the general fund is budgeted to the full
11 limit, the ~~board~~ county governing body may at any time fixed
12 by law for levy and assessment of taxes levy a tax at such
13 rate as in their judgment will be necessary to raise such
14 needed sum not to exceed ~~fifteen--thousand--dollars~~
15 ~~(\$15,000).~~

16 Section 15. There is a new R.C.M. section that reads
17 as follows:

18 State to be reimbursed for forest fire suppression
19 activities in noncooperating counties. A county that has not
20 entered into a cooperative or other written agreement with
21 the state for forest protection shall reimburse the state
22 for costs incurred by the state in connection with state
23 fire suppression activities resulting from a forest fire
24 emergency in that county.

25 Section 16. Section 81-1411, R.C.M. 1947, is amended

1 to read as follows:

2 "81-1411. Duties of department of natural resources
3 and conservation. The department of natural resources and
4 conservation shall, under the direction and control of the
5 state board of land commissioners, do all the field work in
6 the selection, location, examination, appraisalment, and
7 reappraisalment of state timberlands. It shall do all acts
8 required of it by the board, and under the direction of the
9 board it has general charge of the timberlands of the state.
10 It shall, under the supervision of the board, execute all
11 matters pertaining to forestry within the jurisdiction of
12 the state; have charge of all firewardens of the state and
13 direct and aid them in their duties; direct the protection,
14 improvement, and condition of state forests; take such
15 action as is authorized by law to prevent and extinguish
16 forest, brush, and grass fires; enforce the laws pertaining
17 to forest and brushcover lands, and prosecute for any
18 violation of those laws. ~~It shall furnish notices printed~~
19 ~~in large letters, calling attention to the danger from~~
20 ~~forest fires, and to the forest fire and trespass laws, and~~
21 ~~their penalties. These notices shall be posted by the~~
22 ~~firewarden in conspicuous places in the several counties of~~
23 ~~the state, and particularly in brush and forest covered~~
24 ~~country, at frequent intervals along streams and lakes~~
25 ~~frequented by tourists, hunters, and fishermen, at~~

1 ~~established camping sites, and in every post office in the~~
2 ~~forested region. The department shall establish and maintain~~
3 ~~forest fire control training programs for state firefighters~~
4 ~~and other persons requiring training."~~

5 Section 17. Section 81-1412, R.C.M. 1947, is amended
6 to read as follows:

7 "81-1412. Firewardens. The department of natural
8 resources and conservation shall appoint firewardens in such
9 number and localities as it considers necessary wise
10 ~~public-spirited citizens to act as volunteer firewardens.~~
11 Every sheriff, undersheriff, deputy sheriff, state fish and
12 game warden, ~~and the state fish and game director, members~~
13 ~~of the board of natural resources and conservation, the~~
14 ~~director of the department of natural resources and~~
15 ~~conservation and employees of the department designated by~~
16 ~~him, officers of organized forest protection districts,~~
17 ~~members of the Montana highway patrol, officers of the~~
18 ~~national park service residing in Montana, and officers of~~
19 ~~the bureau of Indian affairs is-ex-officio-a firewarden are~~
20 firewardens, but may not receive any additional compensation
21 by reason of the duties hereby imposed, ~~and they shall be~~
22 ~~considered paid firewardens under the terms of this act.~~ The
23 supervisors and rangers of the federal forest lands within
24 this state, whenever they formally accept the duties and
25 responsibilities of firewardens, may be appointed volunteer

1 ~~firewardens, and have all the powers given to firewardens by~~
2 ~~this act.~~ The firewardens shall promptly report all fires to
3 the department of natural resources and conservation, take
4 immediate and active steps toward their extinguishment,
5 report any violation of forest laws, and assist in
6 apprehending and convicting offenders."

7 Section 18. Section 81-1415, R.C.M. 1947, is amended
8 to read as follows:

9 "81-1415. Duties of department of natural resources to
10 protect state lands ~~firewardens---and--foresters.~~ The
11 ~~department of natural resources--and--conservation--and--all~~
12 ~~firewardens--(except-volunteer-wardens),~~ under such rules as
13 the state board of land commissioners may provide, shall
14 protect the timber natural resources of the state, and
15 especially the timber natural resources owned by the state,
16 from destruction by fire, and, for such purpose, in
17 emergencies, may employ men and incur other expenses when
18 necessary."

19 Section 19. Repealer. Sections 28-125, 28-128, and
20 28-604, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 13-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, 19 77, there is hereby submitted a Fiscal Note
House Bill 68 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Act to remove barriers to more efficient delivery of forest fire protection services to forest and farm resources by
improving the forest fire assessment system, and expanding responsibility of counties in providing protection.

FISCAL IMPACT:

This measure will have no discernable effect on revenues or expenditures.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/12/77

STATE ADMINISTRATION COMMITTEE

45 Legislature

Page 3

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 62	TO REVISE & CLARIFY LAWS RELATIVE TO FIREMEN'S RETIREMENT, DEATH & DISABILITY BENEFITS	1-4-77	BARDANOUE	1-10-77	<u>DO PASS</u>	1-11-77
HB 63	TO REVISE & CLARIFY LAWS RELATIVE TO POLICE RETIREMENT, DEATH & DISABILITY BENEFITS	1-4-77	BARDANOUE	2/14/77	Do Pass	2/18
HB 67	CREATION OF A FIRE MARSHAL ADVISORY COUNCIL: TAX INCREASE ON FIRE INSURANCE PREMIUMS, DISPOSAL OF MONEY COLLECTED, ETC.	1-5-77	ROBBINS, O'CONNELL BERTELSEN SIVERTSEN	1-10-77	DO-PASS 1-14-77 Rejected As Amend. Do Pass	1-11-77 1-24
HB 68	SIMPLIFICATION OF THE FOREST FIRE ASSESSMENT SYSTEM, EXPANSION OF COUNTY RESPONSIBILITY & AUTHORITY FOR FIRE PROTECTION	1-5-77	BERTELSEN ROBBINS SIVERTSEN	1-10-77	1-10-77 - Sub-Committee appointed Do Pass	1-17-77
HB 86	ZERO-BASED BUDGETING & PROGRAM PERFORMANCE AUDITING & SELECTION OF PROGRAMS TO BE MADE BY A JOINT LEGISLATIVE COMMITTEE	1-7-77	KIMBLE, UHDE, VINCENT, PALMER, FAGG, HUENNEKENS	1-11-77 1-21-77	Held for Sub-Committee As Amended, No Pass	2-17
HB 90	TO REVISE & CLARIFY LAWS GOVERNING THE FIRE MARSHAL BUREAU; FOR ESTABLISHMENT OF A FIRE MARSHAL ADVISORY COUNCIL	1-7-77	ROBBINS GILLIGAN BERTELSEN	1-11-77		1-18-77

January 10, 1977

Chairman Brand called the meeting to order at 10:00 a.m. Roll was called, with Mular and Ryan absent.

HB 68-Rep. Bertelsen, sponsor of the bill, opened the hearing. He gave compliments to the Interim Committee, and stated that the bill was an attempt to improve and update Montana's fire protection and prevention. He gave main intents of the bill as being: the present system is unmanageable in areas constantly subdividing, there are some substantive changes from the present laws as far as extent of protection, it is an attempt to simplify the language, and training has been included. He noted duplications in the present law which have been taken out. The major change will be to one class of timber land rather than two; and there will be a fee increase to \$.16 per acre maximum rate and a \$6.00 minimum charge to private owners.

DICK HARGESHEIMER submitted a summary of HBs 38, 54, 62, 67 and 68. See attachment #1.

Rep. Bertelsen pointed out that the outbreak of subdivisions has increased the paper work and mapping necessary for the Department of Natural Resources. An additional fee will be levied on the landowner each year. After an annual operational assessment on fire protection costs is made, the legislature shall appropriate the state's portion, and then the department shall cause an assessment to be made on the owners of said land to bring the total amount received up to the amount specified in the approved plan. Special note was made of the fact that all payments required by private owners are assessments for benefits actually received by the owners, and are not a tax. The bill makes it somewhat mandatory for counties to cooperate with the department in fire protection. This is a major effort to get someone to take responsibility. Rep. Bertelsen made it clear that he felt this to be an important bill, and hoped the committee was willing to make amendments or changes if necessary.

BOB PERSON, Director of the Research Division of the Legislative Council, submitted a written statement on the general revision of Montana's fire laws in connection with the Interim Subcommittee--please see attachment #2 under separate cover. Mr. Person stated that one of the major tasks the Interim Committee had set out to achieve, was to reduce the barriers to delivery of fire protection equipment, to fill any voids in the law and to deal with overlaps.

MR. TED DONEY, Chief Legal Counsel for the Department of Natural Resources, introduced the other people who had come to testify for the bill.

RICHARD SANDMAN--Chief of the Fire Control Bureau, Division of Forestry, Department of Natural Resources and Conservation, Missoula--came as the chief witness with maps, charts and graphs to illustrate what his office feels to be the crying need for the passage of this bill. Once again it was pointed out that the outrageous increase in the practice of subdividing rural land has greatly increased the paper work necessary for his office. He elaborated on the man hours necessary to remake maps and the equipment (helicopters, etc.) needed. He showed the committee maps of forest land versus private land dated 1971 and 1976, and clearly showed the increase in mapping necessary due to smaller and smaller parcels of land being sold. This point also illustrated the increased danger of fire due to the influx of people on to what was at one time primitive timber land. Sandman pointed out that passage of this bill would alleviate the need for his department to remap and assess fees--as the responsibility would be on the county.

Other proponents were: Gary Spaeth, also of DNR; Dan Mizner, of the Montana League of Cities and Towns and the Montana Fire Fighters' Association; Henry Lohr, of the

Broadwater County Rural Fire District, Montana State Volunteer Firemen's Association; R.A. Ellis, of the Montana Volunteer Firemen's Association.

JOHN DELANO, of the Montana Railroad Association and Gerald Neils, of the Montana Loggers Association, spoke in general support of the bill. Don Nettleton, Timber and Land Department of Burlington-Northern, submitted written testimony (see attachment #3) as a proponent.

GUY SPERRY, Secretary/Treasurer for the Gallatin County Fire Council, appeared in favor of the bill. He especially noted the portion of the bill which requires notification of the protection agency for that protection area and a written permit before commencing with any private burning, as this has been a problem, i.e. fires getting out of hand when people don't have appropriate protection on hand.

Rep. Robert Marks, of Clancy, appeared as a private landowner neither in support of nor in opposition to the bill. He objected to the combining of the classes of timber and grazing lands, and the increase in the protection fee. His feeling on this was based on the difference in actual land condition between eastern and western Montana, and therefore the difference is usable timber. "Much of the area right around Helena is scruffy; and there should be a differentiation about the quality of the timber." He pointed out that being charged more for protection of unusable timber would encourage land owners to subdivide in an effort to cut expenses, or cut the timber to block the charge. He went on to say, "Everybody has mentioned the liability of the landowners. Sandman has said that most fires are not caused by the landowners, but by people using the land, or land adjacent to it. I maintain that the state should pay more of a percentage than it is now. I think the greatest benefit is to the people other than the landowners, in the protection of the watershed." He called the committee's attention to page 8, section 6--(Determination of costs of fire protection), and stated that, "I'm not concerned with liability; but I feel I have greater capability than the state to fight fires on my property--I am closer, I have the equipment--in a case of liability, you would have to prove any negligence. If a fire starts, and I fight it to the best of my ability, I don't see how I can be held liable." He went on to discuss liability insurance, and pointed out that most landowners carry ample coverage--therefore, this bill would put an added burden on large landowners, who most often have liability anyway.

Rep. Bertelsen closed by saying that he had expected some opposition, and had realized that some amendments would possibly be necessary; but emphasized the definite need for the state to contribute more to the cost of protection, because the value is not limited to the landowners.

Chairman Brand opened the hearing for questions from the committee.

Rep. Menahan questioned why state intervention was being requested, when usually the opposite is true. Rep. Marks countered by saying that small landowners had worked out affidavits agreements to pay for fire protection--but the problem is that the subdivisions are usually where the fires start, and yet the subdivisions don't have to pay as large a share as ranchers.

Rep. Turner questioned whether landowners could be held liable except through negligence. Mr. Sandman replied that state law says that owners of forest land - class 1 & 2 - must do everything to stop a fire and keep it from spreading, but that not all landowners had the necessary equipment or the capability to fight their own fires. Sandman also brought up the point that his figures show that 51% of the people on 51% of the land agree that they want to be included in the fire protection district.

Chairman Brand closed the hearing on HB 68.

HB 12-Rep. Bardanouve moved DO PASS, seconded by Lien, passed unanimously.

HB 38-Bardanouve moved DO PASS, seconded by Menahan, passed unanimously.

HB 54-Lien moved DO PASS, seconded by Meyer, passed unanimously.

HB 57-Lien moved DO PASS, seconded by Kropp, passed unanimously.

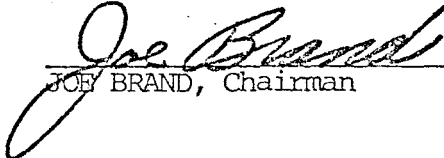
HB 62-Bardanouve moved DO PASS, seconded by Smith, passed unanimously.

HB 67-Lien moved to pass until the committee could have the Fiscal Analyst give a projection of cost of the increase. Meyer seconds. Motion passes unanimously.

HB 68-Chair recommends that a subcommittee be appointed, being agreed upon, the chair appointed Rep. Robbins as Chairman of said committee, with Reps. Turner and O'Connell serving as committee members.

HB 54 - was later held for further testimony.

MEETING ADJOURNED.


JOE BRAND, Chairman


ANITA C. SIERKE, Secretary

COMMITTEE ON State Administration

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
21	1-13-77	2-23-77	3-5-77				2-23-77		
23	1-13-77	2-23-77	3-5-77				2-23-77		
32	1-13-77	2-23-77	3-5-77				2-23-77		
35	1-13-77	2-23-77	3-5-77				2-23-77		
37	1-13-77	2-25-77	3-5-77				2-25-77		
12	1-15-77	2-25-77	3-5-77				2-25-77		
24	1-15-77	2-25-77	3-7-77				2-25-77	3-7-77	
33	1-15-77	2-25-77	3-5-77				2-25-77		
62	1-15-77	3-4-77	3-5-77					3-4-77	
34	1-17-77	3-4-77	3-10-77				3-4-77		
57	1-17-77	3-4-77	3-10-77				3-4-77		
54	1-21-77	3-4-77	3-10-77						3-4-77
90	1-22-77 4-2-77	3-5-77	4-2-77					3-9-77 4-2-77	
68	1-25-77	3-5-77	3-17-77					3-16-77	
96	1-25-77	3-5-77	3-12-77					3-9-77	
150	1-29-77	3-5-77	3-16-77					3-9-77	
175	1-29-77	3-5-77	3-16-77					3-9-77	

MINUTES OF THE MEETING
SENATE STATE ADMINISTRATION COMMITTEE
March 5, 1977

The meeting was called to order at 8:00 a.m. by Senator Towe, Chairman, in Room 410 of the Capitol Building. Committee members present were Senators Towe, Story, Brown, Rasmussen, Roskie, Jergeson, Blaylock and Devine.

The following bills were discussed: HB 68
HB 90
HB 96
HB 150
HB 175

HOUSE BILL 175

Representative Driscoll, District 91, sponsor of the bill, stated the bill is the result of the interim audit committee study and serves to clarify when monies from agencies should be deposited with and by the State Treasurer. Some problems have arisen when daily deposits have not been made. The guidelines in the bill state deposits should be made daily if \$100 in cash or \$500 in credits and securities are received. If such amounts are not accumulated in one day, they will be accumulated until those levels are reached and then deposited.

PROPOSERS

John Northey, staff attorney for the Legislative Auditor, stated he had nothing to add to Representative Driscoll's remarks and he fully supported the bill.

There were no further proponents and no opponents to the bill. Following brief questions by the committee, the hearing on House Bill 175 was closed.

HOUSE BILL 150

Representative Dorothy Bradley, District 77, sponsor of the bill, stated the purpose of the bill is to include historians in the membership of the Board of the Historical Society. Of the fifteen members of the Board, five shall be professionals with one of the five being an archeologist. Historically, the Board has served three functions: library, archives and museums. The Board meets four times a year with executive meetings six times a year. At present the only qualification for Board membership is an interest in that area. Since 1960 only one historian has served on the Board. She stated there are many historians and archeologists in the state who would like to serve on the Board.

There being no opponents or proponents to the bill the hearing was opened to questions from the committee.

Senator Towe asked Ms. Bradley if she felt it was clear the professionals should be history related people or if an amendment should be made to that effect.

investigation unit in the Department of Justice is currently in the House. They would like to amend HB 90 to make it conform to that same procedure by striking subsection d on page 4,

There being no further proponents and no opponents to the bill the hearing was opened to questions by the committee.

Senator Towe asked who is responsible for investigating fires.

Mr. McGrath stated the initial investigation is done at the local level and if anything suspicious is discovered, the report is made to the arson investigation unit and the Chief of that unit would assume the responsibility.

Senator Towe asked if that would mean the Fire Marshall wouldn't have the responsibility.

Mr. McGrath responded that is right.

Mr. Penttila, Fire Marshall, stated the Fire Marshall can assist in the investigation of a fire at the request of a local fire chief. If anything of a criminal nature is suspected, the local law enforcement officers are alerted and the Fire Marshall refers the case to the arson investigation unit.

Mr. McGrath stated the Department of Justice wants the same teeth put into arson investigation. There is a need to establish a good rapport with local law enforcement agencies as there are virtually no convictions on arson at this point.

Mr. Penttila, reviewed the functions of his division, stating adequate staffing is a constant problem. The personnel has to be well versed in many areas and functions and even attend the law enforcement academy in Bozeman because they do have arrest powers.

There being no further discussion, the hearing was closed.

HOUSE BILL 68

Representative Verner Bertelsen, District 47, sponsor of the bill, stated the bill is the product of an interim study committee and provides fire protection for timber land areas. It removes the multiclass distinctions in fire protection assessments and establishes a minimum fee. It further increases the authority of counties in fireprotection and removes obsolete sections of the law. The forestry people in the state support the bill as a method of protecting our natural resources.

PROPOSERS

Mr. Richard Sandman, Chief of the Fire Control Bureau of the Division of Forestry, Department of Natural Resources and Conservation, presented statistical information to the committee re the bill. There are 12 and 1/2 million acres of classified forest land in the state with 8 and 1/2 million acres of that under fire protection. Fire protection under Class 1 (more ground area covered by the crown of the tree) is assessed up to a maximum of 16¢ an acre and under Class 2 up to 5¢ and acre.

Private landowners bear the cost of fire protection on a 1/3 to 2/3 ratio with the state in areas which are in forest fire districts. Over half a million dollars has been raised through those assessments this year. He presented series of charts illustrating the difficulties of assessing with the large amount of subdividing going on in the state. This makes assessment procedures extremely complicated.

The bill would combine the Class 1 and 2 assessments at a minimum rate of \$6 per owner. The rate on fighting a fire between a Class 1 and 2 area is the same. The bill establishes the county as the level of assistance to the landowner with the provision that the county can come to the state and request a mutual aid cooperative program wherein the state would help the county organize, train, and give support in forest fire fighting. 1.3 million acres are presently covered by mutual aid agreements.

Henry Lohr, Montana State Firemen's Association and Chief of the County Fire District in Yellowstone County read a letter in support of the bill from Yellowstone Boy's Ranch (attached). Mr. Lohr stated he also supported the bill and urged its passage.

Robert Holding, Executive Director of the Montana Wood Products Association, state his support of the bill.

Gerald Neils, representing the Montana Logging Association, stated he supports the bill.

John Delano, representing the Montana Railroad Association, stated his support of the bill.

Don Nettleton, representing Burlington Northern Timber and Land Department, stated Burlington Northern worked with the interim committee on the bill in hopes of obtaining better forest fire protection for the state. He suggested a brief amendment on page 7, line 24 following "district" by inserting "within areas protected by a county," which would clarify the county involvement.

There being no further proposers Senator Towe asked for opponents to the bill.

OPPONENTS

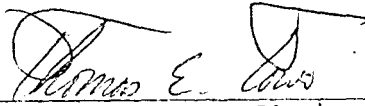
John Patterson, a farmer from Yellowstone County, stated he feels he shouldn't be assessed for land with scrub pine trees that saw mills won't even use. He felt volunteer fire fighters are not totally reliable. He felt he couldn't justify a 16¢ an acre assessment if they go into a fire district because he produces grass.

Bill Gerhardt, Yellowstone County, stated he agreed with the Patterson testimony. He was concerned that classification can carry over into grass land and eventually cover the whole state and the 16¢ an acre tax is prohibitive.

CLOSING

Mr. Sandman closed for Representative Bertelsen by saying he had met with ranchers and he understands their concerns. He stated grass land won't be assessed as the classification only covers grass land 1/2 mile out from the timber. He further noted the landowners have to vote on creating a fire district and when subdivisions are created they would create their own volunteer fire departments and if structures predominate in the subdivision, they will be eliminated from the forest fire district.

There being no further business, the meeting adjourned to reconvene March 7, at 11:00 a.m. in Room 410.



Thomas E. Towe, Chairman

ROLL CALL.

STATE NOMINATIONS COMMISSION COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 4/12/17

[illegible]

SENATE State Administration COMMITTEE

BILL HB 90

VISITORS' REGISTER

DATE 3/2/71

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
MIKE McGRATH	ATTY GEN	HB 90	X	
Bill Penttala	State Fire Marshal	HB 8490	X	
John Presnell	DIST 91	HB 75	X	
Gerald Neils	Mont Logging	HB 68	✓	
HARRISON FARR	DIST - 63	HB 96	X	
Ernesting Bradley	77	HB 150	X	
Donald M. Nettleton	Burlington Northern-Timberland	HB 68	X	unanim.
John J. ...	Mont BR ...	HB 68	X	
Henry F. Lohr	Mont State Vol Fire ...	HB 68	X	
Joseph W. GASTON	MONTANA DIVISION OF FORESTRY	HB 68	X	
Blair Sparks	MT Dept of Natural Resources	HB 68	X	
Jonathan M. Murphy	Dept Nat Res & Cons-Div Forestry	HB 68	X	
Timothy Doney	DNREC	HB 68	X	
Robert Sanderson	Mont Dept. Nat Resources	HB 68	X	
Bob Hedding	Montana Wood Products Assn	HB 68	X	

NAME: Thomas L. Bartel DATE: Mar 5 1971

ADDRESS: 820 - Hetcher Helena - in Orono Mont.

PHONE: 142-3043

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: H.B. 68

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Sponsor

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Richard Sandman DATE: 3/5/77

ADDRESS: 2705 Spurgin Road, Missoula

PHONE: 728-4300

REPRESENTING WHOM? Mont. Division of Forestry

APPEARING ON WHICH PROPOSAL: H.B. #68

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Changes of Class I & II and addition of
Minimum Fee will help reduce administrative
work and increase protection available to landowners.
The change in the County program will
reduce barriers to County-State cooperation



RICHARD SANDMAN

Chief
Fire Control Bureau
Division of Forestry

Department of Natural Resources
and Conservation

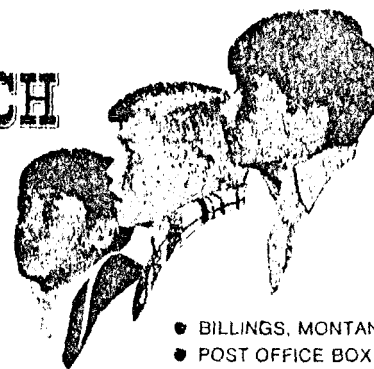
Area Code 406
Telephone 728-4300



2705 Spurgin Road
Missoula, Montana 59801

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Yellowstone BOYS RANCH



- BILLINGS, MONTANA 59103
- POST OFFICE BOX 2549
- AREA CODE 406—252-9301
- SOCIAL SERVICE DEPT. 656-3001

February 17, 1977

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Executive Director
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Ranch Administrator
RLAN DALLUGE, ACSW

Mr. Henry Lohr
Box 51
Townsend, Montana 59644

Dear Mr. Lohr:

It is my understanding that H.B. 68 has been introduced to the Montana Legislature, passed the House of Representatives and is awaiting a Senate hearing. I would like this letter to represent our support of this bill and be read for such purpose at the Senate hearing.

We feel protection of our valuable natural resources is everyone's business. The financial responsibilities to care for our forest and wildlands should be shared by all citizens equally. Therefore, we feel H.B. 68 would be a more appropriate way of funding the Cooperative Fire Control Program, rather than the present procedure of assessing a landowner .02¢ per forested acre.

The Cooperative Fire Control Program has been a valuable asset to our own fire department as well as all the volunteer departments of Yellowstone County. We have received much valuable assistance through equipment, training, professional counsel, etc. Lets continue to upgrade our rural fire protection programs in Montana and assure the conservation of our natural resources.

Thank you.

Respectfully Submitted:

Daniel W. Hansen
Director of Ranch Operations

Secretary/Yellowstone County
Rural Fire Council

DWH/ga

MINUTES OF THE MEETING
SENATE STATE ADMINISTRATION COMMITTEE
MARCH 16, 1977

The meeting was called to order by Senator Towe, Chairman, at 5:10 p.m. in Room 410 of the Capitol Building. Committee members present were Senators Towe, Story, Brown, Rasmussen, Roskie, Jergeson, Blaylock, and Devine.

The following was discussed: Appointments
HOUSE BILL 68

Following discussion on the appointment of George Lackman as Commissioner of Agriculture, Senator Towe moved he be confirmed. SENATORS TOWE, BROWN, BLAYLOCK, AND DEVINE VOTED YES, AND SENATORS STORY, RASMUSSEN, ROSKIE AND JERGESON VOTED NO AND THE CONFIRMATION WILL BE REPORTED OUT WITHOUT RECOMMENDATION.

Senator Jergeson moved to hold the report until the audit report of the Real Estate Board is made public. THE MOTION CARRIED UNANIMOUSLY.

Senator Devine moved Dr. Robert Wambach be confirmed as Director of the Fish and Game Department. THE MOTION CARRIED WITH SENATORS ROSKIE AND STORY VOTING NO AND THE REST OF THE COMMITTEE VOTING AYE.

Senator Brown moved to hold both committee reports until the legislative auditor released the Real Estate Board report. THE MOTION CARRIED UNANIMOUSLY.

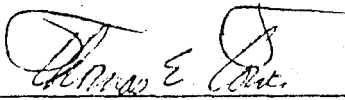
A communication from the Governor noted Mr. Hansen, Missoula, had withdrawn his appointment to the Labor Appeals Board and C. J. Iverson had been appointed to the Montana Board of Oil and Gas Conservation.

HOUSE BILL 68

Senator Roskie moved the amendments on the attached committee report. THE MOTION CARRIED UNANIMOUSLY WITH SENATOR DEVINE ABSENT.

Senator Roskie moved House Bill 68 Be Concurred In As Amended. THE MOTION CARRIED UNANIMOUSLY.

There being no further business, the meeting adjourned to reconvene March 18, 1977.



Thomas E. Towe, Chairman

State Administration COMMITTEE

Date 3/16/72

[illegible]

STANDING COMMITTEE REPORT

March 17

19 77

MR. President

We, your committee on State Administration

having had under consideration House Bill No. 68

Respectfully report as follows: That House Bill No. 68, third reading, be amended as follows:

1. Amend page 1, section 1, line 25.
Following: "to"
Insert: " and no further than one-half mile from"
2. Amend page 7, section 5, line 25.
Following: "protection,"
Insert: "or within areas protected by a county"
3. Amend page 14, section 13, line 21.
Following: "shall"
Insert: "within the limitations of 28-603"

BE PASSED AND AS SO AMENDED, BE CONCURRED IN

BA.

HOUSE BILL NO. 68

INTRODUCED BY BERTELSEN, ROBBINS, SIVERTSEN

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING BARRIERS TO MORE EFFICIENT DELIVERY OF FOREST FIRE PROTECTION SERVICES TO MONTANA'S FOREST AND FARM RESOURCES BY SIMPLIFYING THE FOREST FIRE ASSESSMENT SYSTEM, EXPANDING THE RESPONSIBILITY AND AUTHORITY OF COUNTIES IN PROVIDING PROTECTION FOR FOREST AND FARM RESOURCES, AND CLARIFYING STATUTES RELATING TO FIREWARDENS; AMENDING SECTIONS 28-103, 28-105, 28-106, 28-109, 28-110, 28-111, 28-114, 28-117, 28-118, 28-122, 28-129, 28-601, 28-602, 28-603, 81-1411, 81-1412, AND 81-1415, R.C.M. 1947; AND REPEALING SECTIONS 28-125, 28-128, AND 28-604, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 28-103, R.C.M. 1947, is amended to read as follows:

"28-103. Definitions. Unless the context requires otherwise, in this chapter:

(1) "Forest land" means land which has enough timber, standing or down, slash, or brush, to constitute in the judgment of the ~~board department~~ a fire menace to life or property; grassland and agricultural areas are included when those areas are intermingled with or contiguous to ~~AND NO~~

~~FURTHER THAN ONE-HALF MILE FROM~~ areas of forest land.

(2) "Lands" for conservation purposes means all forest lands within this state which are officially classified by the ~~board department~~ as forest lands ~~in accordance with section 28-104-(b) under 28-106.~~

(3) "Forest fire" means a fire burning uncontrolled on forest lands.

(4) ~~"Organized-forest~~ FOREST fire protection district" means a definite forest land area, the boundaries of which are fixed, and wherein forest fire protection is provided through the medium of an agency recognized by the board.

(5) "Recognized agency" means an agency ~~representing owners of forest lands in an organized forest fire protection district,~~ organized for the purpose of providing forest fire protection ~~in the district~~ and recognized by the board as giving adequate fire protection to forest lands in accordance with rules adopted by the board. ~~A public agency administering and protecting forest lands may also be recognized by the board as such an agency.~~

(6) "Forest fire season" means the period of each year beginning on May ~~first~~ 1 and ending on September ~~thirtieth~~ 30, inclusive; however, in the event of excessive or great fire danger, this period may be expanded when in the judgment of the department dangerous fire conditions exist. When expanded, the department shall give public notice.

(7). "Forest fire protection" means the work of prevention, detection, and suppression of forest fires and includes training required to perform those functions.

~~{8}--"Protection-zone"--means-a-broad-area-within--which the-forest-fire-protection-costs-are-approximately-the-same- Protection-zones-shall-be-designated-by-the-department, with the-approval-of-the-board.~~

~~{9}{18}~~ "Conservation" means the protection and wise use of forest, forest range, forest water, and forest soil resources in keeping with the common welfare of the people of this state.

~~{10}{19}~~ "Owner" means the person, firm, association, or corporation having the actual, beneficial ownership of forest land, or timber, other than an easement, right-of-way, or mineral reservation.

~~{11}{10}~~ "Board" means the board of natural resources and conservation, provided for in section 82A-1509.

~~{12}{11}~~ "Department" means the department of natural resources and conservation, provided for in Title 82A, chapter 15."

Section 2. Section 28-105, R.C.M. 1947, is amended to read as follows:

"28-105. Powers of board. The board may:

~~{1}~~--Classify the forest land areas of the state for which--conservation--and--fire--protection--measures--are

~~reasonably-required, and change or modify the classification from time to time as in its judgment is proper.~~

~~{2}{1}~~ Create organized forest fire protection districts. Before a district is created, the board shall hold a hearing in any county in which the proposed district or a part thereof is included and the department shall give notice of the hearing at least ~~twenty~~-~~{20}~~ days in advance thereof to all owners to be affected by the proposed district. Service of the notice may be made by registered or certified mail or by publication in a newspaper published in the county in which the hearing is to be held, and ~~or~~ if no newspaper is published in the county, then in a newspaper having a general circulation therein. A forest fire protection district may not be created unless approved in writing by vote of not less than ~~fifty-one-per-cent~~-~~{51}~~ of the owners representing at least ~~fifty-one-per-cent~~-~~{51}~~ of the acreage to be involved in the proposed forest fire protection district.

~~{3}{2}~~ Adopt and enforce through the department reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this chapter; however, these rules may not conflict with the powers of the board of land commissioners."

Section 3. Section 28-106, R.C.M. 1947, is amended to read as follows:

"28-106. Powers and duties of department. (1) The department may give technical and practical advice to the farmers-of-the-state concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, ~~and shelters, shelterbelts, and forest~~ fire protection.

(2) The department may provide for forest fire protection of any forest lands through the department or by contract or any other feasible means, in cooperation with any federal, state, or other recognized agency.

(3) The department may classify the forest land areas of the state for which conservation and fire protection measures are reasonably required and change or modify the classification from time to time as in its judgment is proper.

~~(3)~~(4) The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

(5) Nonforest lands and improvements may be protected by the department when requested by the landowner at rates determined by the department.

~~(4)~~(6) The department shall assist the department of state lands in the protection, economic development, and use of the state forests and forest land held by the state for

the purposes and benefit of the common schools and state institutions."

Section 4. Section 28-109, R.C.M. 1947, is amended to read as follows:

"28-109. Duty of owner of classified forest land. (1) An owner of forest land classified as such by the ~~board~~ department shall protect against the starting or existence, and suppress the spread, of fire on that land, ~~during the full period of each forest fire season.~~ This protection and suppression shall be in conformity with reasonable rules and standards for adequate fire protection adopted by the board. If the owner does not provide for the protection and suppression, the department may provide it, at a cost to the landowner of not more than ~~sixteen cents (16¢)~~ 16 cents per acre per year for ~~Class I land and not more than five cents (5¢) per acre per year for Class II land~~ in the event thereof, the and not less than \$6 per owner per year in each protection district. The owner of the land shall pay to the county treasurer of the county in which the land is situated the charge for the same approved by the department, in accordance with this chapter. No other charges may be assessed those landowners participating, except in cases of proven negligence on the part of the landowner or his agent.

~~(2) The forest land of Montana shall be classified for protection and assessment purposes as follows:~~

1 ~~(a) Class I land forest land primarily suitable for~~
 2 ~~production of timber and forest land primarily suitable for~~
 3 ~~joint use for timber production and the grazing of livestock~~
 4 ~~as a permanent or semipermanent joint use or as a temporary~~
 5 ~~joint use during the interim between logging and~~
 6 ~~reforestation.~~

7 ~~(b) Class II land lands primarily suitable for~~
 8 ~~grazing or other agricultural purposes, which are~~
 9 ~~intermingled with or contiguous to the land described in~~
 10 ~~subsection (a) above.~~

11 ~~(c) Class III land lands primarily suitable for~~
 12 ~~grazing or other agricultural purposes, including structures~~
 13 ~~and improvements, which are within the forest fire~~
 14 ~~protection areas but do not meet the detailed definitions of~~
 15 ~~lands described in subsection (b) above. These lands may~~
 16 ~~only be listed for payment when requested by the landowner~~
 17 ~~at rates determined by the department and shall be submitted~~
 18 ~~to the county assessor for collection and disposition as~~
 19 ~~provided in section 28-111."~~

20 Section 5. Section 28-110, R.C.M. 1947, is amended to
 21 read as follows:

22 "28-110. What constitutes compliance. (1) An owner of
 23 ~~Class I or Class II~~ forest lands within an organized forest
 24 ~~fire~~ protection district, while a member of, or while
 25 participating in a recognized agency for forest protection,

1 OR WITHIN AREAS PROTECTED BY A COUNTY shall be considered to
 2 have fully complied with the requirements of section 28-109.

3 (2) In establishing boundaries of organized forest
 4 fire protection districts covering ~~Class I or Class II~~
 5 forest lands, the board may for the purpose of
 6 administrative convenience designate ~~roads, pipelines,~~
 7 ~~streams or other~~ recognizable landmarks as boundaries."

8 Section 6. Section 28-111, R.C.M. 1947, is amended to
 9 read as follows:

10 "28-111. Determination of costs of fire protection --
 11 certification -- tax levy. (1) The department shall prepare
 12 ~~a fire protection an annual operation assessment~~ plan for
 13 ~~the approval of the board~~ in which fire protection costs for
 14 ~~each classification within each protection zone~~ are
 15 determined. ~~The board shall establish the portion of the~~
 16 ~~planned fire protection costs to be borne by the state, and~~
 17 ~~the portion to be borne by the owners of classified forest~~
 18 ~~lands.~~ The department shall request the legislature to
 19 appropriate the state's portion of the cost ~~as approved by~~
 20 ~~the board.~~ After the appropriation is made by the
 21 legislature, the department shall cause an assessment to be
 22 made on the owners of classified forest land, as specified
 23 in section 28-109, sufficient to bring the total amount
 24 received to the amount specified in the approved plan.

25 (2) On or before the second Tuesday in August of each

~~year, the department shall determine the names of all owners who have failed to provide the forest fire protection for their lands required by this chapter, together with the description of the lands and their acreage, and calculate the total amount due to the department from each owner for forest fire protection, which amount may not exceed the maximum specified in section 28-109.~~

~~{3} The~~ the department shall certify in writing to the county assessor of each county the names of these owners of forest lands in his county, together with a description of their lands and a statement of the amount found to be due and owing by each of the owners to the department for forest fire protection.

{3} All payments required of owners of forest lands by this chapter are assessments for benefits actually received by those owners in the protection of their lands and are not a tax upon the property of such owners.

(4) Upon receiving the certificate from the department showing the amount due, the county assessor shall extend the amounts upon the county tax rolls covering the lands, and the sums shall become obligations of the owner to be paid and collected in the same manner and at the same time and with like penalties as general state and county taxes upon the same property are collected. All sums collected shall be promptly ~~transmitted to the state treasury, who shall~~

deposit them deposited in the federal and private grant clearance fund for distribution in accordance with section 28-124."

Section 7. Section 28-114, R.C.M. 1947, is amended to read as follows:

"28-114. Permit for burning required. During the forest fire season or an expansion thereof, a person may not ignite or set a forest fire, slash burning fire, land clearing fire, debris burning fire, or an open fire, within forest lands, without an official written permit to ignite or set the fire from a ~~firewarden or peace officer authorized by the department to issue such permits for forest lands~~ the recognized protection agency for that protection area. A permit is not required in order to build, set, or ignite a campfire within and upon a designated improved camping ground, or upon a plot of land from which all vegetable and inflammable matter and debris have been removed to a point where it may not become ignited by the campfire or by sparks therefrom."

Section 8. Section 28-117, R.C.M. 1947, is amended to read as follows:

"28-117. Throwing lighted ~~cigarettes, etc., materials~~ -- penalty. ~~Buring the forest fire season, as defined by this act, any~~ A person who shall throw or place throws or places any lighted cigarette, cigar, ashes, or other flaming

or glowing substance ~~or any substance or thing~~ that may
 cause ~~a fire in any place where such lighted cigarette~~
~~cigar, match, ashes, or other flaming or glowing substance~~
~~or other substance or things, may directly or indirectly~~
 start a fire in or near any forest material, ~~or throw from a~~
~~vehicle any lighted cigarette, cigar, ashes or other flaming~~
~~or glowing substance, or any substance or thing that may~~
 cause a fire, shall be is guilty of a misdemeanor."

Section 9. Section 28-118, R.C.M. 1947, is amended to
 read as follows:

"28-118. Spark arresters to be provided ~~for engines~~
~~etc. During the forest fire season, as defined by this act,~~
~~no~~ No person shall may use, drive, or operate within any
 forest lands, any wood or coal burning locomotive, logging
 engine, portable engine, traction engine, or stationary
 engine, or any coal or wood burning jammer or loader, or
 internal combustion engine which ~~that~~ is not equipped with
 a modern, efficient, and adequate spark arrester and with
 modern, efficient devices to prevent the escape of sparks,
 coals, cinders, and other burning material from the smoke
 stack, fire box, ash pan or exhaust of any such engine
 jammer or loader. And it shall be unlawful for any person to
 operate any such engine, jammer or loader, within any forest
 lands during any forest protection season, except when such
 spark arrester and other devices herein defined are

efficient, complete and properly installed for the purpose
 intended."

Section 10. Section 28-122, R.C.M. 1947, is amended to
 read as follows:

"28-122. Department of state lands ~~land~~ commissioners
 and ~~the~~ county commissioners governing body to cooperate.
 The department of state lands and boards of county
 commissioners governing body ~~may~~ shall cooperate with the
 department to the extent legally permissible in providing
 means and methods of safeguarding the forest land lying
 within the state and in preventing fire nuisance thereon.
 The department of state lands and the boards of county
 commissioners governing body ~~may~~ SHALL list forest lands
 under their jurisdiction with a recognized agency or the
 department for forest protection. The moneys the state and
 counties become liable for under this section shall be paid
 from funds provided by law for the protection of the forest
 lands owned by the state and counties."

Section 11. Section 28-129, R.C.M. 1947, is amended to
 read as follows:

"28-129. Owners of forest lands may have hearing
 before board -- conditions. An owner of forest land within
 an organized forest fire protection district is entitled to
 a hearing before the board, after a request therefor, on any
 subject pertaining to the activities of the board, or of the

department, or any recognized agency as agent of the department, affecting the owner's property. A request for a hearing before the board may not have the effect of suspending the operations of the board, or the department, or any agent of the department, undertaken pursuant to this chapter, but, upon the hearing, the board may terminate those operations if found unreasonable. A hearing pertaining to costs charged against the forest land of an owner for protection thereof, as provided in section 28-109, must be requested on or before the ~~fifteenth day~~ of August 15 of each year."

Section 12. Section 28-601, R.C.M. 1947, is amended to read as follows:

"28-601. Authority of county ~~commissioners governing body~~ to protect range, farm, and forest resources. For the purpose of protection and conservation of range, farm, and forest resources, and of the prevention of soil erosion, the ~~respective boards of county commissioners governing body~~ are hereby ~~authorized to~~ may perform the functions hereinafter provided in this chapter."

Section 13. Section 28-602, R.C.M. 1947, is amended to read as follows:

"28-602. Functions of the ~~board~~ county governing body. The ~~functions of the respective boards of county commissioners~~ county governing body, with respect to rural

fire control, shall ~~be to~~ carry out the specific authorities and duties hereinafter imposed:

(1) ~~To~~ The governing body shall provide for the organization of volunteer rural fire control crews;

(2) ~~To~~ The governing body shall appoint a county rural fire chief and such district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as they ~~may deem~~ consider necessary. The county rural fire chief may be a regular county officer or other person who in the opinion of the board is the best qualified to perform the duties of this office and who ~~shall serve~~ without is not entitled to additional compensation for the duties hereby imposed. All district fire chiefs shall serve without compensation;

~~(3) Boards of county commissioners acting pursuant to this act may co-operate with federal, state and other fire protection agencies, including boards of county commissioners of adjoining counties in providing means and methods of safeguarding the range, farm and forest lands within the state and in preventing fire nuisance thereon~~

(3) The county governing body shall WITHIN THE LIMITATIONS OF 28-603 protect the range, farm, and forest lands within the county from fire in cooperation with federal, state, and other fire protection agencies, including governing bodies of adjoining counties."

1 Section 14. Section 28-603, R.C.M. 1947, is amended to
2 read as follows:

3 "28-603. Powers of board county governing body.

4 (1) ~~Boards of The~~ county commissioners governing body may
5 in ~~their~~ its discretion establish fire seasons annually
6 during which no person ~~shall~~ may ignite or set any forest
7 fire, or slash burning fire, or land clearing fire, or
8 debris burning fire, or any open fire, within THE COUNTY
9 PROTECTION AREA ON any forest, range, or crop lands, subject
10 to the provisions of this act, without having obtained an
11 official written permit to ignite or set such fire from a
12 ~~county rural fire chief or from a district rural fire chief~~
13 ~~authorized by the board to issue such permits for such lands~~
14 THE RECOGNIZED PROTECTION AGENCY FOR THAT PROTECTION AREA.

15 (2) Any person who ~~shall~~ ignite ~~ignites~~ or ~~set~~ sets
16 any forest fire, or slash burning fire, or land clearing
17 fire, or debris burning fire, or any open fire, within any
18 forest, range, or crop land subject to the provisions of
19 this act without first having obtained a written permit to
20 ignite or set such fire ~~shall~~ is be guilty of a
21 misdemeanor.

22 (3) To augment rural crews in case of serious
23 emergency, the ~~boards~~ governing body may provide for the
24 organization and training of voluntary urban fire crews to
25 be used in rural areas.

1 (4) Any county rural fire chief ~~and/or~~ district rural
2 fire chief may enter private property either with or without
3 fire control crews for the purpose of suppressing fires, and
4 ~~are~~ is exempt from any damage resulting from such activity.

5 (5) The board county governing body is authorized to
6 ~~appropriate from the general fund of the county not to~~
7 ~~exceed fifteen thousand dollars (\$15,000) per year FUNDS for~~
8 the purchase, care, and maintenance of ~~fire-fighting~~
9 firefighting equipment, or for the payment of wages to
10 ~~skilled operators of heavy mechanized equipment in the~~
11 prevention, detection, and suppression of fires, when deemed
12 necessary, or if the general fund is budgeted to the full
13 limit, the board county governing body may at any time fixed
14 by law for levy and assessment of taxes levy a tax at such
15 rate as in their judgment will be necessary to raise such
16 needed sum not to exceed ~~fifteen thousand dollars~~
17 (\$15,000).

18 Section 15. There is a new R.C.M. section that reads
19 as follows:

20 State to be reimbursed for forest fire suppression
21 activities in noncooperating counties. A county that has not
22 entered into a cooperative or other written agreement with
23 the state for forest protection shall reimburse the state
24 for costs incurred by the state in connection with state
25 fire suppression activities resulting from a forest fire

1 emergency in that county.

2 Section 16. Section 81-1411, R.C.M. 1947, is amended
3 to read as follows:

4 "81-1411. Duties of department of natural resources
5 and conservation. The department of natural resources and
6 conservation shall, under the direction and control of the
7 state board of land commissioners, do all the field work in
8 the selection, location, examination, appraisalment, and
9 reappraisalment of state timberlands. It shall do all acts
10 required of it by the board, and under the direction of the
11 board it has general charge of the timberlands of the state.
12 It shall, under the supervision of the board, execute all
13 matters pertaining to forestry within the jurisdiction of
14 the state; have charge of all firewardens of the state and
15 direct and aid them in their duties; direct the protection,
16 improvement, and condition of state forests; take such
17 action as is authorized by law to prevent and extinguish
18 forest, brush, and grass fires; enforce the laws pertaining
19 to forest and brushcover lands, and prosecute for any
20 violation of those laws. ~~It shall furnish notices, printed~~
21 ~~in large letters, calling attention to the danger from~~
22 ~~forest fires, and to the forest fire and trespass laws, and~~
23 ~~their penalties. These notices shall be posted by the~~
24 ~~firewarden in conspicuous places in the several counties of~~
25 ~~the state, and particularly in brush and forest covered~~

1 ~~country, at frequent intervals along streams and lakes~~
2 ~~frequented by tourists, hunters, and fishermen, at~~
3 ~~established camping sites, and in every post office in the~~
4 ~~forested region. The department shall establish and maintain~~
5 ~~forest fire control training programs for state firefighters~~
6 ~~and other persons requiring training."~~

7 Section 17. Section 81-1412, R.C.M. 1947, is amended
8 to read as follows:

9 "81-1412. Firewardens. The department of natural
10 resources and conservation shall appoint firewardens in such
11 number and localities as it considers necessary ~~wise~~
12 ~~public-spirited citizens to act as volunteer firewardens.~~
13 Every sheriff, undersheriff, deputy sheriff, state fish and
14 game warden, and the state fish and game director, members
15 of the board of natural resources and conservation, the
16 director of the department of natural resources and
17 conservation and employees of the department designated by
18 him, officers of organized forest protection districts,
19 members of the Montana highway patrol, officers of the
20 national park service residing in Montana, and officers of
21 the bureau of Indian affairs is ex-officio a firewarden are
22 firewardens, but may not receive any additional compensation
23 by reason of the duties hereby imposed, ~~and they shall be~~
24 ~~considered paid firewardens under the terms of this act.~~ The
25 supervisors and rangers of the federal forest lands within

1 this state, whenever they formally accept the duties and
 2 responsibilities of firewardens, may be appointed volunteer
 3 firewardens, ~~and have all the powers given to firewardens by~~
 4 ~~this act.~~ The firewardens shall promptly report all fires to
 5 the department of natural resources and conservation, take
 6 immediate and active steps toward their extinguishment,
 7 report any violation of forest laws, and assist in
 8 apprehending and convicting offenders."

9 Section 18. Section 81-1415, R.C.M. 1947, is amended
 10 to read as follows:

11 "81-1415. Duties of department of natural resources to
 12 protect state lands ~~firewardens--and--foresters.~~ The
 13 ~~department of natural resources and conservation and all~~
 14 ~~firewardens--(except volunteer wardens),~~ under such rules as
 15 the state board of land commissioners may provide, shall
 16 protect the timber natural resources of the state, and
 17 especially the timber natural resources owned by the state,
 18 from destruction by fire, and, for such purpose, in
 19 emergencies, may employ men and incur other expenses when
 20 necessary."

21 Section 19. Repealer. Sections 28-125, 28-128, and
 22 28-604, R.C.M. 1947, are repealed.

-End-